



Orange County Soil & Water Conservation District Financial Operations

Report of Examination

Period Covered:

January 1, 2014 — May 20, 2015

2015M-238



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2015

Dear District Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Orange County Soil & Water Conservation District, entitled Financial Operations. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Orange County Soil & Water Conservation District (District) is one of 58 such districts in New York State. These districts provide services and fund projects related to the conservation of soil and water resources, the improvement of water quality, the control and prevention of soil erosion and the prevention of floodwater and sediment damage.

The District is governed by a five-member Board of Directors (Board). The Board is responsible for the general management and oversight of the District's financial and operational affairs. The District Manager (Manager) is responsible for the District's daily operations and reports to the Board. The Office Manager, who is also the Clerk of the Board, is responsible for maintaining financial records, preparing monthly reports and keeping complete and accurate records of Board meeting proceedings.

The District's main sources of revenues are State and federal aid and grants, an appropriation from Orange County, Inter-Municipal Agreements (IMA) with local governments and proceeds from sales and services provided to customers. District expenditures totaled approximately \$570,000 for the 2014 fiscal year, composed of contractual expenditures of \$258,000, District payroll (including benefits) of \$254,000 and grant program expenditures of \$47,000.

Objective

The objective of our audit was to evaluate internal controls over financial operations. Our audit addressed the following related question:

- Did the Board implement adequate controls over the District's fiscal affairs and provide sufficient transparency?

Scope and Methodology

We examined the District's financial operations for the period January 1, 2014 through May 20, 2015. We expanded our scope back to February 1, 2013 to verify Board approval of consulting service agreements.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning

the value and/or size of the relevant population and the sample selected for examination.

**Comments of
District Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with District officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as indicated in Appendix A, District officials generally agreed with our recommendations and indicated they have taken, or planned to take, corrective action. Appendix B includes our comments on issues raised in the District's response.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the District's office.

Financial Operations

The Board is responsible for managing and overseeing the District's overall fiscal affairs and safeguarding its resources. This responsibility includes establishing a system of internal controls to provide reasonable assurance that cash and other resources are properly safeguarded; transactions are authorized and properly recorded; financial reports are accurate, reliable, and filed in a timely manner; and applicable laws, rules and regulations are followed.

Although the Board established systems and procedures for managing, accounting for and reporting the District's financial operations, they should be strengthened to provide for better transparency and accountability of Board actions. Board minutes did not provide an accurate picture of the Board's actions, and certain contracts were not approved until weeks or months after being signed. As a result, transparency is compromised and the District is at risk of not receiving the services desired at the intended price.

Transparency

To ensure proper transparency of decisions and transactions that affect District residents, the Board should disclose all aspects of District finances. Therefore, it is important that the Board clearly record its actions so that District residents have the opportunity to know about and react to its plans.

The Clerk of the Board should keep a complete and accurate record of the proceedings of each Board meeting. At a minimum, meeting minutes should clearly record or summarize all motions and any other matter that the Board voted on, so that residents understand not only what decisions were made, but why the Board made them. New York State County Law requires each resolution to have a prefixed title concisely stating the contents, and empowers the Board to amend, rescind or supersede any adopted resolution or motion as needed.

We found that the Board meeting minutes were not transparent, as motions were not always clearly stated or titled. Further, the Board did not rescind motions, even when a new motion was adopted to supersede the previous one. For example:

- According to the January 26, 2015 minutes, the Board decided (but did not vote) that the District would make a one-time rental payment to the Manager equivalent to the cost of materials to construct a shed roof on one of his barns. In exchange, the District's utility terrain vehicle (UTV) would be stored and available for staff, as needed. However, per the

February 23, 2015 minutes, the Board approved a motion to store the equipment at a set cap of \$900, which was amended, as stated in the March minutes, to a one-year rental payment of \$900. The May 18, 2015 minutes subsequently stated that two motions had been previously voted on by the Board to compensate the Manager; however, we confirmed that the Manager received no compensation for storage. The Board's initial decision to make a one-time payment to the Manager had not been formally voted on.

- According to the October 21, 2013 minutes, a motion was made to give the District approval to hire a private attorney to prepare an agreement for consulting services. The Orange County Law Department had agreed to prepare this contract for the District, but the Manager was concerned that it was almost two months past the agreement start date of September 1, 2013 and the District still did not have a signed contract. Ultimately, a private attorney was not hired because the Orange County Law Department completed the agreement, but the motion to hire a private attorney was not rescinded and there was nothing in the minutes indicating that a private attorney was not hired.
- In the February 24, 2014 minutes, the Board made a motion to authorize the Manager to offer an increase in the rental payment to a farmer for space to store District equipment. The payment was to increase from \$150 per month (for which the District had a five-year contract through December 2014) to \$175 per month. The farmer received payment of \$175 for the March rent but rejected the monthly increase, which was noted in the March 24, 2014 minutes. No further actions were taken by the Board and payments reverted to \$150 per month. However, there was no record that the motion to increase the rental payments was rescinded.

According to a Director, the Board did not realize that a motion should be rescinded once a new motion supersedes it. As a result, the minutes were not clear and transparent because they did not provide adequate information about District activities and Board decisions.

Adoption of Contracts

The Board is responsible for ensuring that contracts are approved prior to entering into agreements. However, the Board did not ensure that certain contract agreements were approved in a timely manner, but instead consistently approved agreements for engineering consulting services¹ at least one month after the contract date. For example:

¹ These agreements were all with the same engineering firm and had overlapping timeframes; one agreement would commence while the previous agreement was still in effect.

- The agreement dated April 8, 2013 was approved over three months later on July 15, 2013.
- The agreement dated September 1, 2013 and ending on August 31, 2014 was not recorded in the Board minutes as having been approved. Even so, the agreement was amended per the August 18, 2014 minutes, shortly before its expiration, to increase the not-to-exceed cost terms from \$50,000 to \$60,000. Although the subsequent contract term had already begun (see next example), the modified payments were issued on the September 1, 2013 agreement. The engineering services invoice dated July 29, 2014 exceeded the \$50,000 limit; as a result, total payments issued on the September 1, 2013 agreement were \$62,484, which was \$12,484 in excess of the \$50,000 not-to-exceed cost in the original signed agreement.
- The agreement dated June 1, 2014 was approved over two months later on August 18, 2014.
- The agreement dated January 1, 2015 was approved almost two months later on February 23, 2015.

District officials indicated that agreements were not approved prior to contract start dates due to delays in legal preparation, untimely submission of engineering reports and billing issues. Because the Board did not approve these contracts before entering into them, there is a risk of confusion regarding contract terms, and the District may not receive the services desired at the agreed-upon price.

Recommendations

The Board should:

1. Ensure that meeting minutes provide a clear record of Board actions, key decisions and the rationale for those decisions, as appropriate.
2. Rescind or amend motions when necessary and ensure that minutes are complete and accurate.
3. Approve contractual agreements before they are signed and dated.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

The District officials' response to this audit can be found on the following pages.



ORANGE COUNTY SOIL & WATER CONSERVATION DISTRICT
225 Dolson Avenue, Suite 103, Middletown, NY 10940
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kevin.sumner@ocsoil.org

To: Division of Local Government and School Accountability

Office of the State Comptroller
 33 Airport Center Drive, Suite 103
 New Windsor, NY, 12553

From: John Wright, Chairman, on Behalf of the Board of Directors

Please consider this memorandum our formal response to the recommendations provided to us in your Report of Examination covering the period January 1, 2014 to May 20, 2015, and to the Report in general.

Response to Recommendations

1. Recommendation – Ensure that meeting minutes provide a clear record of Board actions, key decisions and rationale for those decisions, as appropriate.
 OCSWCD’s Response – OCSWCD has already implemented a change in style of preparation of Board meeting minutes - numbering and emboldening Board motions. We believe our minutes have historically made extra effort to provide background on Board motions and other key Board decisions. However, the Board is in agreement to provide direction to the District Secretary to apply the intent of this recommendation to future preparation of Board meeting minutes, to the best of her ability.

2. Recommendation – Rescind or amend motions when necessary and ensure that minutes are complete and accurate.
 OCSWCD’s Response – OCSWCD agrees to pay particular attention to tracking motions of the Board and rescinding or amending them when deemed appropriate. This policy will be facilitated by OCSWCD’s new procedure of numbering Board motions. A procedure will be developed to allow the Board to review past Board motions to ensure proper closure where appropriate.

3. Recommendation - Approve contractual agreements before they are signed and dated.
 OCSWCD Response – OCSWCD will approve contracts before they are signed by the Chairman or other designated official. It is noted that in some cases the “contract start date” is earlier than the date of signature by OCSWCD official.

BOARD OF DIRECTORS

Gary Keeton 394 Guymard Turnpike Middletown, NY 10940	Paul Ruskiewicz 15 Matthews Street Goshen, NY 10924	Paula DeBlock 133 Whitford Road Westtown, NY 10998	John Wright 329 Kings Hwy. Warwick, NY 10990	Shannon Wong 15 Matthews Street Goshen, NY 10924
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Additional Comments from OCSWCD on Full Audit and Control Report

1. The District does not agree with the use of the term 'transparency' – which is used several times in the Report. It appears to us that the authors are using the word transparency where they perceive confusion or lack of clarity in Board meeting minutes. As decisions and discussions can often become lengthy and complicated, particularly on the some of the discussions identified in the Report, it is not surprising to us that some confusion might occur on the part of a reader who was not present at the meeting. Rather, we believe that the referenced discussions recorded in the minutes reflect efforts to be totally transparent – hence the level of detail in some of the minutes, which was identified as a concern by your examiner.

See
Note 1
Page 11

We found some of the guidance offered by your examiner and Report contradictory. For example, as noted above, guidance was offered verbally that minutes could be 'more concise' – focusing on clearly stated motions and votes, without necessarily capturing every discussion that does not result in or relate to a motion or vote. But the Report emphasizes the need for adequate detail in Board minutes – ("Ensure that meeting minutes provide a clear record of Board actions, key decisions and the rationale for those decisions.."; "...the Board should disclose *all* [our emphasis] aspects of District finances."). We concede that the minutes were not always written as concisely and clearly as possible. However, we take issue with a characterization that suggests anything other than an effort to be transparent.

See
Note 1
Page 11

2. The Conservation District Manager has no recollection of stating that "...the Board did not realize that a motion should be rescinded once a new motion supercedes it." What he recalls stating to the examiner on this matter was that he had no recollection of the District Board rescinding a motion. These two statements are significantly different.
3. Adoption of Contracts – Our experience is that signing and approving contracts subsequent to the contract start date is fairly standard practice. While this fact alone would not necessarily make this procedure good or correct practice, we note that the many contracts we have entered into with the State of NY commonly follow this practice. As an example, our 'Round 19' Agricultural Nonpoint Source Abatement and Control Program (ANPSACP) contract has a start date of 7/24/12, was signed by the District Board on 11/19/12, was signed by the NYS Department of A&M on 11/26/12, and was APPROVED by the NYS Department of Audit and Control on 12/18/2012.
4. In regard to the use of the proposed increased rental payment for equipment storage as an example of motions that should have been rescinded, we find the argument incorrect. Your Report correctly notes that the Board motioned to "authorize the Manager to *offer* (our emphasis) an increased rental payment.." The Report then notes that there was no record that the motion to increase the rental payments was rescinded. Clearly, the motion was to make the offer, not make the increase. So rescinding the motion to increase the rental rate would have been not only

See
Note 2
Page 11

See
Note 3
Page 11

incorrect but unclear, in our view. A more clear explanation in the minutes that the increased rental payment offer was declined might have been possible, but we question the notion that the motion needed to be rescinded.

Summary

The District, particularly the Office Manager, appreciates the efforts your examiner made to offer constructive guidance and suggestions. Several of her suggestions have been implemented already.

We found the Report's focus on the manner in which the Board meeting minutes were written to be confusing, since in our view this is largely a stylistic matter and difficult to label as 'right' or 'wrong'. We do agree with your examiner's suggestion to bold and number Board motions and maintain a separate listing of them, and have implemented this practice already.

See
Note 1
Page 11

We were pleased that the examination did not discover any significant financial management issues, and in fact that your examiner went back several years through each employee's daily time logs and compared these records to grant and other employee time accounting reports and found the District to be responsibly using and managing public funds in their trust.

Chairman,
John Wright

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

As the official public record of a Board meeting, the minutes should clearly and accurately reflect all the business transacted. This requirement is not only for the benefit of outside parties but, most importantly, for informing District residents who are entitled to a clear explanation of the Board's decisions that their tax moneys support.

Note 2

We have modified the report to read "Director" instead of "District Manager."

Note 3

Although the Board's motion was to authorize an offer of increased rental payment, the Board in fact paid the increased amount of \$175 in March 2014, then subsequently reverted to paying the original contracted amount of \$150 after the payee declined the increase. Therefore, the motion should have been rescinded to reflect the circumstances and the contracted payment amount.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed District officials.
- We reviewed Board minutes from February 2013 through May 2015.
- We reviewed District disbursements during the audit period for payments for storage rental, legal fees and consulting services.
- We reviewed consulting service agreements.
- We reviewed letters from the District to the consulting engineers.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX D

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